

## LOCAL OPTION TOURIST DEVELOPMENT TAX

### **125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.--**

(1) SHORT TITLE.--This section shall be known and may be cited as the "Local Option Tourist Development Act."

(2) APPLICATION;  
DEFINITIONS.--

(a) Application.--The provisions contained in chapter 212 apply to the administration of any tax levied pursuant to this section.

(b) Definitions.--For purposes of this section:

1. "Promotion" means marketing or advertising designed to increase tourist-related business activities.

2. "Tourist" means a person who participates in trade or recreation activities outside the county of his or her permanent residence or who rents or leases transient accommodations as described in paragraph (3)(a).

3. "Retained spring training franchise" means a spring training franchise that had a location in this state on or before December 31, 1998, and that has continuously remained at that location for at least the 10 years preceding that date.

(3) TAXABLE PRIVILEGES;  
EXEMPTIONS; LEVY; RATE.--

(a) It is declared to be the intent of the Legislature that every person who rents, leases, or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, mobile home park, recreational vehicle park, or condominium for a term of 6 months or less is exercising a privilege which is subject to taxation under this section,

unless such person rents, leases, or lets for consideration any living quarters or accommodations which are exempt according to the provisions of chapter 212.

(b) Subject to the provisions of this section, any county in this state may levy and impose a tourist development tax on the exercise within its boundaries of the taxable privilege described in paragraph (a), except that there shall be no additional levy under this section in any cities or towns presently imposing a municipal resort tax as authorized under chapter 67-930, Laws of Florida, and this section shall not in any way affect the powers and existence of any tourist development authority created pursuant to chapter 67-930, Laws of Florida. No county authorized to levy a convention development tax pursuant to s. 212.0305, or to s. 8 of chapter 84-324, Laws of Florida, shall be allowed to levy more than the 2-percent tax authorized by this section. A county may elect to levy and impose the tourist development tax in a subcounty special district of the county. However, if a county so elects to levy and impose the tax on a subcounty special district basis, the district shall embrace all or a significant contiguous portion of the county, and the county shall assist the Department of Revenue in identifying the rental units subject to tax in the district.

(c) The tourist development tax shall be levied, imposed, and set by the governing board of the county at a rate of 1 percent or 2 percent of each dollar and major fraction of each dollar of the total consideration charged for such lease or rental. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary consideration.

(d) In addition to any 1-percent or 2-percent tax imposed under paragraph (c), the governing board of the county may levy, impose, and set an additional 1 percent of each dollar above the tax rate set under paragraph (c) by the extraordinary vote of the governing board for the purposes set forth in subsection (5) or by referendum approval by the registered electors within the county or subcounty special district. No county shall levy, impose, and set the tax authorized under this paragraph unless the county has imposed the 1-percent or 2-percent tax authorized under paragraph (c) for a minimum of 3 years prior to the effective date of the levy and imposition of the tax authorized by this paragraph. Revenues raised by the additional tax authorized under this paragraph shall not be used for debt service on or refinancing of existing facilities as specified in subparagraph (5)(a)1. unless approved by a resolution adopted by an extraordinary majority of the total membership of the governing board of the county. If the 1-percent or 2-percent tax authorized in paragraph (c) is levied within a subcounty special taxing district, the additional tax authorized in this paragraph shall only be levied therein. The provisions of paragraphs (4)(a)-(d) shall not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the ordinance by the governing board or the first day of any subsequent month as may be specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance.

(e) The tourist development tax shall be in addition to any other tax imposed pursuant to chapter 212 and in addition to all other taxes and fees and the consideration for

the rental or lease.

(f) The tourist development tax shall be charged by the person receiving the consideration for the lease or rental, and it shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such lease or rental.

(g) The person receiving the consideration for such rental or lease shall receive, account for, and remit the tax to the Department of Revenue at the time and in the manner provided for persons who collect and remit taxes under s. 212.03. The same duties and privileges imposed by chapter 212 upon dealers in tangible property, respecting the collection and remission of tax; the making of returns; the keeping of books, records, and accounts; and compliance with the rules of the Department of Revenue in the administration of that chapter shall apply to and be binding upon all persons who are subject to the provisions of this section. However, the Department of Revenue may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed \$25.

(h) The Department of Revenue shall keep records showing the amount of taxes collected, which records shall also include records disclosing the amount of taxes collected for and from each county in which the tax authorized by this section is applicable. These records shall be open for inspection during the regular office hours of the Department of Revenue, subject to the provisions of s. 213.053.

(i) Collections received by the Department of Revenue from the tax, less costs of administration of this section, shall be paid and returned monthly to the county which imposed the tax, for use by the county in accordance with the provisions of this section. They shall be placed in the county tourist development trust fund of the respective county,

which shall be established by each county as a condition precedent to receipt of such funds.

(j) The Department of Revenue is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.

(k) The Department of Revenue shall promulgate such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section.

(l) In addition to any other tax which is imposed pursuant to this section, a county may impose up to an additional 1-percent tax on the exercise of the privilege described in paragraph (a) by majority vote of the governing board of the county in order to:

1. Pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of a professional sports franchise facility, or the acquisition, construction, reconstruction, or renovation of a retained spring training franchise facility, either publicly owned and operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred prior to the issuance of such bonds.

2. Pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of a convention center, and to pay the planning and design costs incurred prior to the issuance of such bonds.

3. Pay the operation and maintenance costs of a convention center for a period of up to 10 years. Only counties that have elected to levy the tax for the purposes authorized in subparagraph 2. may use the tax for the purposes enumerated in this subparagraph. Any county that elects to levy the tax for the purposes authorized in subparagraph 2. after July 1, 2000, may use the proceeds of the tax

to pay the operation and maintenance costs of a convention center for the life of the bonds.

The provision of paragraph (b) which prohibits any county authorized to levy a convention development tax pursuant to s. 212.0305 from levying more than the 2-percent tax authorized by this section, and the provisions of paragraphs (4)(a)-(d), shall not apply to the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the ordinance by the governing board or the first day of any subsequent month as may be specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance.

(m) 1. In addition to any other tax which is imposed pursuant to this section, a high tourism impact county may impose an additional 1-percent tax on the exercise of the privilege described in paragraph (a) by extraordinary vote of the governing board of the county. The tax revenues received pursuant to this paragraph shall be used for one or more of the authorized uses pursuant to subsection (5).

2. A county is considered to be a high tourism impact county after the Department of Revenue has certified to such county that the sales subject to the tax levied pursuant to this section exceeded \$600 million during the previous calendar year, or were at least 18 percent of the county's total taxable sales under chapter 212 where the sales subject to the tax levied pursuant to this section were a minimum of \$200 million, except that no county authorized to levy a convention development tax pursuant to s. 212.0305 shall be considered a high tourism impact county. Once a county

qualifies as a high tourism impact county, it shall retain this designation for the period the tax is levied pursuant to this paragraph.

3. The provisions of paragraphs (4)(a)-(d) shall not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the ordinance by the governing board or the first day of any subsequent month as may be specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance.

(n) In addition to any other tax that is imposed under this section, a county that has imposed the tax under paragraph (l) may impose an additional tax that is no greater than 1 percent on the exercise of the privilege described in paragraph (a) by a majority plus one vote of the membership of the board of county commissioners in order to pay the debt service on bonds issued to finance:

1. The construction, reconstruction, or renovation of a facility either publicly owned and operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred prior to the issuance of such bonds for a new professional sports franchise as defined in s. 288.1162.

2. The acquisition, construction, reconstruction, or renovation of a facility either publicly owned and operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning

and design costs incurred prior to the issuance of such bonds for a retained spring training franchise.

A county that imposes the tax authorized in this paragraph may not expend any ad valorem tax revenues for the acquisition, construction, reconstruction, or renovation of that facility. The provision of paragraph (b) which prohibits any county authorized to levy a convention development tax pursuant to s. 212.0305 from levying more than the 2-percent tax authorized by this section shall not apply to the additional tax authorized by this paragraph in counties which levy convention development taxes pursuant to s. 212.0305(4)(a). Subsection (4) does not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph is the first day of the second month following approval of the ordinance by the board of county commissioners or the first day of any subsequent month specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of the ordinance.

(4) ORDINANCE LEVY TAX;  
PROCEDURE.--

(a) The tourist development tax shall be levied and imposed pursuant to an ordinance containing the county tourist development plan prescribed under paragraph (c), enacted by the governing board of the county. The ordinance levying and imposing the tourist development tax shall not be effective unless the electors of the county or the electors in the subcounty special district in which the tax is to be levied approve the ordinance authorizing the levy and imposition of the tax, in accordance with subsection (6). The effective date of the levy and imposition of the tax shall be the first day of the second month following approval of the

ordinance by referendum, as prescribed in subsection (6), or the first day of any subsequent month as may be specified in the ordinance. A certified copy of the ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance. The governing authority of any county levying such tax shall notify the department, within 10 days after approval of the ordinance by referendum, of the time period during which the tax will be levied.

(b) At least 60 days prior to the enactment of the ordinance levying the tax, the governing board of the county shall adopt a resolution establishing and appointing the members of the county tourist development council, as prescribed in paragraph (e), and indicating the intention of the county to consider the enactment of an ordinance levying and imposing the tourist development tax.

(c) Prior to enactment of the ordinance levying and imposing the tax, the county tourist development council shall prepare and submit to the governing board of the county for its approval a plan for tourist development. The plan shall set forth the anticipated net tourist development tax revenue to be derived by the county for the 24 months following the levy of the tax; the tax district in which the tourist development tax is proposed; and a list, in the order of priority, of the proposed uses of the tax revenue by specific project or special use as the same are authorized under subsection (5). The plan shall include the approximate cost or expense allocation for each specific project or special use.

(d) The governing board of the county shall adopt the county plan for tourist development as part of the ordinance levying the tax. After enactment of the ordinance levying and imposing the tax, the plan of tourist development may not be substantially amended except by ordinance enacted by an affirmative

vote of a majority plus one additional member of the governing board.

(e) The governing board of each county which levies and imposes a tourist development tax under this section shall appoint an advisory council to be known as the "(name of county) Tourist Development Council." The council shall be established by ordinance and composed of nine members who shall be appointed by the governing board. The chair of the governing board of the county or any other member of the governing board as designated by the chair shall serve on the council. Two members of the council shall be elected municipal officials, at least one of whom shall be from the most populous municipality in the county or subcounty special taxing district in which the tax is levied. Six members of the council shall be persons who are involved in the tourist industry and who have demonstrated an interest in tourist development, of which members, not less than three nor more than four shall be owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax. All members of the council shall be electors of the county. The governing board of the county shall have the option of designating the chair of the council or allowing the council to elect a chair. The chair shall be appointed or elected annually and may be reelected or reappointed. The members of the council shall serve for staggered terms of 4 years. The terms of office of the original members shall be prescribed in the resolution required under paragraph (b). The council shall meet at least once each quarter and, from time to time, shall make recommendations to the county governing board for the effective operation of the special projects or for uses of the tourist development tax revenue and perform such other duties as may be prescribed by county ordinance or resolution. The council shall continuously

review expenditures of revenues from the tourist development trust fund and shall receive, at least quarterly, expenditure reports from the county governing board or its designee. Expenditures which the council believes to be unauthorized shall be reported to the county governing board and the Department of Revenue. The governing board and the department shall review the findings of the council and take appropriate administrative or judicial action to ensure compliance with this section. The changes in the composition of the membership of the tourist development council mandated by chapter 86-4, Laws of Florida, and this act shall not cause the interruption of the current term of any person who is a member of a council on October 1, 1996.

(5) AUTHORIZED USES OF REVENUE.--

(a) All tax revenues received pursuant to this section by a county imposing the tourist development tax shall be used by that county for the following purposes only:

1. To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums, or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied. Tax revenues received pursuant to this section may also be used for promotion of zoological parks that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public. However, these purposes may be implemented through service contracts and leases with lessees with sufficient expertise or financial capability to operate such facilities;

2. To promote and advertise tourism in

the State of Florida and nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event shall have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists;

3. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county, which may include any indirect administrative costs for services performed by the county on behalf of the promotion agency; or

4. To finance beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river. In counties of less than 100,000 population, no more than 10 percent of the revenues from the tourist development tax may be used for beach park facilities.

(b) Tax revenues received pursuant to this section by a county of less than 600,000 population imposing a tourist development tax may only be used by that county for the following purposes in addition to those purposes allowed pursuant to paragraph (a): to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more zoological parks, fishing piers or nature centers which are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public. All population figures relating to this subsection shall be based on the most recent population estimates prepared pursuant to the provisions of s. 186.901. These

population estimates shall be those in effect on July 1 of each year.

(c) The revenues to be derived from the tourist development tax may be pledged to secure and liquidate revenue bonds issued by the county for the purposes set forth in subparagraphs (a)1. and 4. or for the purpose of refunding bonds previously issued for such purposes, or both; however, no more than 50 percent of the revenues from the tourist development tax may be pledged to secure and liquidate revenue bonds or revenue refunding bonds issued for the purposes set forth in subparagraph (a)4. Such revenue bonds and revenue refunding bonds may be authorized and issued in such principal amounts, with such interest rates and maturity dates, and subject to such other terms, conditions, and covenants as the governing board of the county shall provide. The Legislature intends that this paragraph shall be full and complete authority for accomplishing such purposes, but such authority shall be supplemental and additional to, and not in derogation of, any powers now existing or later conferred under law.

(d) Any use of the local option tourist development tax revenues collected pursuant to this section for a purpose not expressly authorized by paragraph (3)(l) or paragraph (3)(n) or paragraph (a), paragraph (b), or paragraph (c) of this subsection is expressly prohibited.

(6) REFERENDUM.--

(a) No ordinance enacted by any county levying the tax authorized by paragraphs (3)(b) and (c) shall take effect until the ordinance levying and imposing the tax has been approved in a referendum election by a majority of the electors voting in such election in the county or by a majority of the electors voting in the subcounty special tax district affected by the tax.

(b) The governing board of the county

levying the tax shall arrange to place a question on the ballot at the next regular or special election to be held within the county, substantially as follows:

....FOR the Tourist Development Tax  
...AGAINST the Tourist Development

Tax.

(c) If a majority of the electors voting on the question approve the levy, the ordinance shall be deemed to be in effect.

<sup>1</sup>(d) In any case where a referendum levying and imposing the tax has been approved pursuant to this section and 15 percent of the electors in the county or 15 percent of the electors in the subcounty special district in which the tax is levied file a petition with the board of county commissioners for a referendum to repeal the tax, the board of county commissioners shall cause an election to be held for the repeal of the tax which election shall be subject only to the outstanding bonds for which the tax has been pledged. However, the repeal of the tax shall not be effective with respect to any portion of taxes initially levied in November 1989, which has been pledged or is being used to support bonds under paragraph (3)(d) or paragraph (3)(l) until the retirement of those bonds.

<sup>1</sup>(7) AUTOMATIC EXPIRATION ON RETIREMENT OF BONDS.--Anything in this section to the contrary notwithstanding, if the plan for tourist development approved by the governing board of the county, as amended from time to time pursuant to paragraph (4)(d), includes the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, or auditorium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization, the county ordinance levying and imposing the tax shall automatically expire upon the later of:

(a) Retirement of all bonds issued by the county for financing the same; or

(b) The expiration of any agreement by the county for the operation or maintenance, or both, of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, or museum. However, nothing herein shall preclude that county from amending the ordinance extending the tax to the extent that the board of the county determines to be necessary to provide funds with which to operate, maintain, repair, or renew and replace a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, or museum or from enacting an ordinance pursuant to the provisions of this section reimposing a tourist development tax, upon or following the expiration of the previous ordinance.

**(8) PROHIBITED ACTS;  
ENFORCEMENT; PENALTIES.--**

(a) Any person who is taxable hereunder who fails or refuses to charge and collect from the person paying any rental or lease the taxes herein provided, either by himself or herself or through agents or employees, is, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) No person shall advertise or hold out to the public in any manner, directly or indirectly, that he or she will absorb all or any part of the tax, that he or she will relieve the person paying the rental of the payment of all or any part of the tax, or that the tax will not be added to the rental or lease consideration or, when added, that it or any part thereof will be refunded or refused, either directly or indirectly, by any method whatsoever. Any person who willfully violates any provision of this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s.

775.083.

(c) The tax authorized to be levied by this section shall constitute a lien on the property of the lessee, customer, or tenant in the same manner as, and shall be collectible as are, liens authorized and imposed in ss. 713.67, 713.68, and 713.69.

**(9) COUNTY TOURISM  
PROMOTION AGENCIES.--**In addition to any other powers and duties provided for agencies created for the purpose of tourism promotion by a county levying the tourist development tax, such agencies are authorized and empowered to:

(a) Provide, arrange, and make expenditures for transportation, lodging, meals, and other reasonable and necessary items and services for such persons, as determined by the head of the agency, in connection with the performance of promotional and other duties of the agency. However, entertainment expenses shall be authorized only when meeting with travel writers, tour brokers, or other persons connected with the tourist industry. All travel and entertainment-related expenditures in excess of \$10 made pursuant to this subsection shall be substantiated by paid bills therefor. Complete and detailed justification for all travel and entertainment-related expenditures made pursuant to this subsection shall be shown on the travel expense voucher or attached thereto. Transportation and other incidental expenses, other than those provided in s. 112.061, shall only be authorized for officers and employees of the agency, other authorized persons, travel writers, tour brokers, or other persons connected with the tourist industry when traveling pursuant to paragraph (c). All other transportation and incidental expenses pursuant to this subsection shall be as provided in s. 112.061. Operational or promotional advancements, as defined in s. 288.35(4), obtained pursuant to this subsection, shall not



be commingled with any other funds.

(b) Pay by advancement or reimbursement, or a combination thereof, the costs of per diem and incidental expenses of officers and employees of the agency and other authorized persons, for foreign travel at the current rates as specified in the federal publication "Standardized Regulations (Government Civilians, Foreign Areas)." The provisions of this paragraph shall apply for any officer or employee of the agency traveling in foreign countries for the purposes of promoting tourism and travel to the county, if such travel expenses are approved and certified by the agency head from whose funds the traveler is paid. As used in this paragraph, the term "authorized person" shall have the same meaning as provided in s. 112.061(2)(e). With the exception of provisions concerning rates of payment for per diem, the provisions of s. 112.061 are applicable to the travel described in this paragraph. As used in this paragraph, "foreign travel" means all travel outside the United States. Persons traveling in foreign countries pursuant to this subsection shall not be entitled to reimbursements or advancements pursuant to s. 112.061(6)(a)2.

(c) Pay by advancement or reimbursement, or by a combination thereof, the actual reasonable and necessary costs of travel, meals, lodging, and incidental expenses of officers and employees of the agency and other authorized persons when meeting with travel writers, tour brokers, or other persons connected with the tourist industry, and while attending or traveling in connection with travel or trade shows. With the exception of provisions concerning rates of payment, the provisions of s. 112.061 are applicable to the travel described in this paragraph.

(d) Undertake marketing research and advertising research studies and provide

reservations services and convention and meetings booking services consistent with the authorized uses of revenue as set forth in subsection (5).

1. Information given to a county tourism promotion agency which, if released, would reveal the identity of persons or entities who provide data or other information as a response to a sales promotion effort, an advertisement, or a research project or whose names, addresses, meeting or convention plan information or accommodations or other visitation needs become booking or reservation list data, is exempt from s. 119.07(1) and from s. 24(a), Art. I of the State Constitution.

2. The following information, when held by a county tourism promotion agency, is exempt from s. 119.07(1) and from s. 24(a), Art. I of the State Constitution:

a. A trade secret, as defined in s. 812.081.

b. Booking business records, as defined in s. 255.047.

c. Trade secrets and commercial or financial information gathered from a person and privileged or confidential, as defined and interpreted under 5 U.S.C. s. 552(b)(4), or any amendments thereto.

(10) LOCAL ADMINISTRATION OF TAX.--

(a) A county levying a tax under this section or s. 125.0108 may be exempted from the requirements of the respective section that:

1. The tax collected be remitted to the Department of Revenue before being returned to the county; and

2. The tax be administered according to chapter 212, if the county adopts an ordinance providing for the local collection and administration of the tax.

(b) The ordinance shall include provision for, but need not be limited to:

1. Initial collection of the tax to be

made in the same manner as the tax imposed under chapter 212.

2. Designation of the local official to whom the tax shall be remitted, and that official's powers and duties with respect thereto. Tax revenues may be used only in accordance with the provisions of this section.

3. Requirements respecting the keeping of appropriate books, records, and accounts by those responsible for collecting and administering the tax.

4. Provision for payment of a dealer's credit as required under chapter 212.

5. A portion of the tax collected may be retained by the county for costs of administration, but such portion shall not exceed 3 percent of collections.

<sup>1</sup>(c) A county adopting an ordinance providing for the collection and administration of the tax on a local basis shall also adopt an ordinance electing either to assume all responsibility for auditing the records and accounts of dealers, and assessing, collecting, and enforcing payments of delinquent taxes, or to delegate such authority to the Department of Revenue. If the county elects to assume such responsibility, it shall be bound by all rules promulgated by the Department of Revenue pursuant to paragraph (3)(k), as well as those rules pertaining to the sales and use tax on transient rentals imposed by s. 212.03. The county may use any power granted in this section to the department to determine the amount of tax, penalties, and interest to be paid by each dealer and to enforce payment of such tax, penalties, and interest. The county may use a certified public accountant licensed in this state in the administration of its statutory duties and responsibilities. Such certified public accountants are bound by the same confidentiality requirements and subject to the same penalties as the county under s. 213.053. If the county delegates such authority to the

department, the department shall distribute any collections so received, less costs of administration, to the county. The amount deducted for costs of administration by the department shall be used only for those costs which are solely and directly attributable to auditing, assessing, collecting, processing, and enforcing payments of delinquent taxes authorized in this section. If a county elects to delegate such authority to the department, the department shall audit only those businesses in the county that it audits pursuant to chapter 212.

#### (11) INTEREST PAID ON DISTRIBUTIONS.--

(a) Interest shall be paid on undistributed taxes collected and remitted to the Department of Revenue under this section. Such interest shall be included along with the tax proceeds distributed to the counties and shall be paid from moneys transferred from the General Revenue Fund. The department shall calculate the interest for net tax distributions using the average daily rate that was earned by the State Treasury for the preceding calendar quarter and paid to the General Revenue Fund. This rate shall be certified by the Treasurer to the department by the 20th day following the close of each quarter.

(b) The interest applicable to taxes collected under this section shall be calculated by multiplying the tax amounts to be distributed times the daily rate times the number of days after the third working day following the date the tax is due and payable pursuant to s. 212.11 until the date the department issues a voucher to request the Comptroller to issue the payment warrant. The warrant shall be issued within 7 days after the request.

(c) If an overdistribution of taxes is made by the department, interest shall be paid on the overpaid amount beginning on the date the warrant including the overpayment was

issued until the third working day following the due date of the payment period from which the overpayment is being deducted. The interest on an overpayment shall be calculated using the average daily rate from the applicable calendar quarter and shall be deducted from moneys distributed to the county under this section.

**History.**--ss. 1, 2, 3, 4, 5, 6, 7, 8, ch. 77-209; s. 3, ch. 79-359; s. 72, ch. 79-400; s. 4, ch. 80-209; s. 2, ch. 80-222; s. 5, ch. 83-297; s. 1, ch. 83-321; s. 40, ch. 85-55; s. 1, ch. 86-4; s. 76, ch. 86-163; s. 61, ch. 87-6; s. 1, ch. 87-99; s. 35, ch. 87-101; s. 1, ch. 87-175; s. 5, ch. 87-280; s. 4, ch. 88-226; s. 6, ch. 88-243; s. 2, ch. 89-217; ss. 31, 66, ch. 89-356; s. 2, ch. 89-362; s. 1, ch. 90-107; s. 1, ch. 90-349; s. 81, ch. 91-45; s. 230, ch. 91-224; s. 3, ch. 92-175; s. 1, ch. 92-204; s. 32, ch. 92-320; s. 4, ch. 93-233; s. 1, ch. 94-275; s. 3, ch. 94-314; s. 37, ch. 94-338; s. 3, ch. 94-353; s. 1, ch. 95-133; s. 1434, ch. 95-147; s. 3, ch. 95-304; s. 1, ch. 95-360; s. 1, ch. 95-416; ss. 44, 46, ch. 96-397; s. 43, ch. 96-406; s. 15, ch. 97-99; s. 1, ch. 98-106; s. 58, ch. 99-2; s. 1, ch. 99-287; ss. 6, 11, 14, ch. 2000-312; s. 11, ch. 2000-351.

<sup>1</sup>**Note.**--Section 11, ch. 2000-312, provides that "[t]he provisions of this act shall be reviewed by the Legislature prior to October 1, 2005, and shall be repealed on that date unless otherwise reenacted by the Legislature." If the provisions of ch. 2000-312 are repealed, effective October 1, 2005, paragraph (6)(d), subsection (7), and paragraph (10)(c) will read:

(d) In any case where a referendum levying and imposing the tax has been approved pursuant to this section and 15 percent of the electors in the county or 15 percent of the electors in the subcounty special district in which the tax is levied file a petition with the board of county commissioners for a referendum to repeal the tax, the board of county commissioners shall cause an election to

be held for the repeal of the tax which election shall be subject only to the outstanding bonds for which the tax has been pledged.

(7) **AUTOMATIC EXPIRATION ON RETIREMENT OF BONDS.**--Anything in this section to the contrary notwithstanding, if the plan for tourist development approved by the governing board of the county, as amended from time to time pursuant to paragraph (4)(d), includes the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, or auditorium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization, the county ordinance levying and imposing the tax shall automatically expire upon the retirement of all bonds issued by the county for financing the same; however, nothing herein shall preclude that county from enacting an ordinance pursuant to the provisions of this section reimposing a tourist development tax, upon or following the expiration of the previous ordinance.

\* \* \* \* \*

(c) A county adopting an ordinance providing for the collection and administration of the tax on a local basis shall also adopt an ordinance electing either to assume all responsibility for auditing the records and accounts of dealers, and assessing, collecting, and enforcing payments of delinquent taxes, or to delegate such authority to the Department of Revenue. If the county elects to assume such responsibility, it shall be bound by all rules promulgated by the Department of Revenue pursuant to paragraph (3)(k), as well as those rules pertaining to the sales and use tax on transient rentals imposed by s. 212.03. The county may use any power granted in this section to the department to determine the amount of tax, penalties, and interest to be paid by each dealer and to enforce payment of such

tax, penalties, and interest. If the county delegates such authority to the department, the department shall distribute any collections so received, less costs of administration, to the county. The amount deducted for costs of administration by the department shall be used only for those costs which are solely and directly attributable to auditing, assessing, collecting, processing, and enforcing payments of delinquent taxes authorized in this section. If a county elects to delegate such authority to the department, the department shall audit only those businesses in the county that it audits pursuant to chapter 212.

## TOURIST IMPACT TAX

### **125.0108 Areas of critical state concern; tourist impact tax.--**

(1)(a) Subject to the provisions of this section, any county creating a land authority pursuant to s. 380.0663(1) is authorized to levy by ordinance, in the area or areas within said county designated as an area of critical state concern pursuant to chapter 380, a tourist impact tax on the taxable privileges described in paragraph (b); however, such tax shall not be effective unless and until land development regulations and a local comprehensive plan that meet the requirements of chapter 380 have become effective and such tax is approved by referendum as provided for in subsection (5).

(b) It is declared to be the intent of the Legislature that every person who rents, leases, or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, rooming house, mobile home park, recreational vehicle park, or condominium for a term of 6 months or less, unless such establishment is exempt from the tax imposed by s. 212.03, is exercising a taxable privilege on the proceeds therefrom under this section.

(c) The governing board of the county may, by passage of a resolution by four-fifths vote, repeal such tax.

(d) The tourist impact tax shall be levied at the rate of 1 percent of each dollar and major fraction thereof of the total consideration charged for such taxable privilege. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary consideration.

(e) The tourist impact tax shall be in

addition to any other tax imposed pursuant to chapter 212 and in addition to all other taxes and fees and the consideration for the taxable privilege.

(f) The tourist impact tax shall be charged by the person receiving the consideration for the taxable privilege, and it shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such taxable privilege.

(2)(a) The person receiving the consideration for such taxable privilege and the person doing business within such area or areas of critical state concern shall receive, account for, and remit the tourist impact tax to the Department of Revenue at the time and in the manner provided for persons who collect and remit taxes under chapter 212. The same duties and privileges imposed by chapter 212 upon dealers in tangible property, respecting the collection and remission of tax; the making of returns; the keeping of books, records, and accounts; and compliance with the rules of the Department of Revenue in the administration of that chapter shall apply to and be binding upon all persons who are subject to the provisions of this section. However, the Department of Revenue may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed \$25.

(b) The Department of Revenue shall keep records showing the amount of taxes collected, which records shall also include records disclosing the amount of taxes collected for and from each county in which the tax imposed and authorized by this section is applicable. These records shall be open for inspection during the regular office hours of the Department of Revenue, subject to the provisions of s. 213.053.

(c) Collections received by the Department of Revenue from the tax, less costs of administration of this section, shall be paid and returned monthly to the county and the land authority in accordance with the provisions of subsection (3).

(d) The Department of Revenue, under the applicable rules of the <sup>1</sup>Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.

(e) The Department of Revenue is empowered to promulgate such rules and prescribe and publish such forms as may be necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess for delinquent taxes.

(f) The estimated tax provisions contained in s. 212.11 do not apply to the administration of any tax levied under this section.

(3) All tax revenues received pursuant to this section, less administrative costs, shall be distributed as follows:

(a) Fifty percent shall be transferred to the land authority to be used to purchase property in the area of critical state concern from which the revenue is generated. An amount not to exceed 5 percent may be used for administration and other costs incident to such purchases.

(b) Fifty percent shall be distributed to the governing body of the county where the revenue was generated. Such proceeds shall be used to offset the loss of ad valorem taxes due to acquisitions provided for by this act.

(4)(a) Any person who is taxable hereunder who fails or refuses to charge and collect from the person paying for the taxable privilege the taxes herein provided, either by himself or herself or through agents or employees, is, in addition to being personally liable for the

payment of the tax, guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) No person shall advertise or hold out to the public in any manner, directly or indirectly, that he or she will absorb all or any part of the tax; that he or she will relieve the person paying for the taxable privilege of the payment of all or any part of the tax; or that the tax will not be added to the consideration for the taxable privilege or that, when added, the tax or any part thereof will be refunded or refused, either directly or indirectly, by any method whatsoever. Any person who willfully violates any provision of this paragraph is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(c) The tax authorized to be levied by this section shall constitute a lien on the property of the business, lessee, customer, or tenant in the same manner as, and shall be collectible as are, liens authorized and imposed in ss. 713.67, 713.68, and 713.69.

(5) The tourist impact tax authorized by this section shall take effect only upon express approval by a majority vote of those qualified electors in the area or areas of critical state concern in the county seeking to levy such tax, voting in a referendum to be held by the governing board of such county in conjunction with a general or special election, in accordance with the provisions of law relating to elections currently in force.

(6) The effective date of the levy and imposition of the tourist impact tax authorized under this section shall be the first day of the second month following approval of the ordinance by referendum or the first day of any subsequent month as may be specified in the ordinance. A certified copy of the ordinance shall include the time period and the effective date of the tax levy and shall be furnished by the county

to the Department of Revenue within 10 days after passing an ordinance levying such tax and again within 10 days after approval by referendum of such tax. The county levying the tax shall provide the Department of Revenue with a list of the businesses in the area of critical state concern where the tourist impact tax is levied by zip code or other means of identification. Notwithstanding the provisions of s. 213.053, the Department of Revenue shall assist the county in compiling such list of businesses. The tourist impact tax, if not repealed sooner pursuant to paragraph (1)(c), shall be repealed 10 years after the date the area of critical state concern designation is removed.

<sup>1</sup>**Note.**--Section 72, ch. 86-163, transferred "the statutory powers, duties and functions, records, and property of the Career Service Commission" to the Public Employees Relations Commission.

## CONVENTION DEVELOPMENT TAXES

### **212.0305 Convention development taxes; intent; administration; authorization; use of proceeds.--**

(1) TITLE.--This section may be cited as the "Convention Development Tax Act."

(2) LEGISLATIVE INTENT.--No convention development tax on transient rentals shall be imposed by the governing body of any county unless specifically authorized herein. Any tax authorized pursuant to this section shall be administered and collected exclusively as provided herein and may consist of one or more component levies as enumerated in subsection (4). It is the legislative intent that any authorization for imposition of a convention development tax shall be published in the Florida Statutes as a paragraph of subsection (4), irrespective of the duration of the levy. Each enactment shall specify the types of local governments authorized to levy a convention development tax; the rate or rates which may be imposed; the maximum length of time the tax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. One of the principal purposes of the convention development tax is to promote tourism and the use of hotel facilities by facilitating the improvement and construction of convention centers. Any municipality or county wherein the convention development tax is levied is specifically authorized to adopt and implement a convention center booking policy to apply to convention centers owned or operated by a municipality or county which gives priority to bookings after July 1, 1993, in accordance with the minimum number of hotel rooms to be utilized in connection with such convention

center bookings or in accordance with the impact of such bookings on the convention development tax generated.

(3) APPLICATION;  
ADMINISTRATION; PENALTIES.--

(a) The convention development tax on transient rentals imposed by the governing body of any county authorized to so levy shall apply to the amount of any payment made by any person to rent, lease, or use for a period of 6 months or less any living quarters or accommodations in a hotel, apartment hotel, motel, resort motel, apartment, apartment motel, rooming house, tourist or trailer camp, mobile home park, recreational vehicle park, or condominium. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary consideration. Any payment made by a person to rent, lease, or use any living quarters or accommodations which are exempt from the tax imposed under s. 212.03 shall likewise be exempt from any tax imposed under this section.

(b) The tax shall be charged by the person receiving the consideration for the lease or rental, and the tax shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such lease or rental.

(c) The person receiving the consideration for such rental or lease shall receive, account for, and remit the tax to the department at the time and in the manner provided for persons who collect and remit taxes under s. 212.03. The same duties and privileges imposed by this chapter upon dealers in tangible property respecting the collection and remission of tax; the making of returns; the keeping of books, records, and accounts; and compliance with the rules of the department in the administration of



this chapter apply to and are binding upon all persons who are subject to the provisions of this section. However, the department may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed \$25.

(d) The department shall keep records showing the amount of taxes collected, which records shall disclose the taxes collected from each county in which a local government resort tax is levied. These records shall be subject to the provisions of s. 213.053 and are confidential and exempt from the provisions of s. 119.07(1).

(e) The collections received by the department from the tax, less costs of administration, shall be paid and returned monthly to the county which imposed the tax, for use by the county as provided in this section. Such receipts shall be placed in a specific trust fund or funds created by the county.

(f) The department shall promulgate such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess for delinquent taxes.

(g) The estimated tax provisions contained in s. 212.11 do not apply to the administration of any tax levied under this section.

(h) Any person taxable under this section who, either by himself or herself or through the person's agents or employees, fails or refuses to charge and collect the taxes herein provided from the person paying any rental or lease is, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor of the first degree, punishable as provided in s.775.082 or s. 775.083.

(i) No person shall advertise or hold out to the public in any manner, directly or indirectly, that he or she will absorb all or

any part of the tax; that he or she will relieve the person paying the rental of the payment of all or any part of the tax; or that the tax will not be added to the rental or lease consideration or, if added, that the tax or any part thereof will be refunded or refused, either directly or indirectly, by any method whatsoever. Any person who willfully violates any provision of this paragraph is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(j) The tax shall constitute a lien on the property of the lessee, customer, or tenant in the same manner as, and shall be collectible as are, liens authorized and imposed by ss. 713.67,713.68, and 713.69.

(k) Any tax levied pursuant to this section shall be in addition to any other tax imposed pursuant to this chapter and in addition to all other taxes and fees and the consideration for the rental or lease.

(l) The department shall administer the taxes levied herein as increases in the rate of the tax authorized in s. 125.0104. The department shall collect and enforce the provisions of this section and s. 125.0104 in conjunction with each other in those counties authorized to levy the taxes authorized herein. The department shall distribute the proceeds received from the taxes levied pursuant to this section and s. 125.0104 in proportion to the rates of the taxes authorized to the appropriate trust funds as provided by law. In the event of underpayment of the total amount due by a taxpayer pursuant to this section and s. 125.0104, the department shall distribute the amount received in proportion to the rates of the taxes authorized to the appropriate trust funds as provided by law and the penalties and interest due on both of said taxes shall be applicable.

(4) AUTHORIZATION TO LEVY;  
USE OF PROCEEDS; OTHER

## REQUIREMENTS.--

(a) Consolidated government levy for convention development.-- 1. Each county that operates under a government consolidated with that of one or more municipalities in the county may impose, pursuant to an ordinance enacted by the governing body of the county, a levy on the exercise within its boundaries of the taxable privilege of leasing or letting transient rental accommodations described in subsection (3) at the rate of 2 percent of each dollar and major fraction of each dollar of the total consideration charged therefor. The proceeds of this levy shall be known as the consolidated county convention development tax.

2. The county shall furnish to the department, within 10 days after approval of the ordinance imposing the levy, a copy of the ordinance. The effective date of imposition of the levy must be the first day of any month that is at least 60 days after enactment of the ordinance.

3. All consolidated county convention development moneys, including any interest accrued thereon, received by a county imposing the levy must be used in any of the following manners, although the utilization authorized in sub-subparagraph a. shall apply only to municipalities with a population of 10,000 or more:

- a. To promote and advertise tourism;
- b. To extend, enlarge, and improve existing publicly owned convention centers in the county;
- c. To construct a multipurpose convention/coliseum/exhibition center or the maximum components thereof as funds permit in the county; and
- d. To acquire, construct, extend, enlarge, remodel, repair, improve, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums,

or auditoriums.

4. For the purposes of completion of any project under this paragraph, tax revenues and interest accrued may be used:

- a. As collateral, pledged, or hypothecated for projects authorized by this paragraph, including bonds issued in connection therewith; or
- b. As a pledge or capital contribution in conjunction with a partnership, joint venture, or other business arrangement between the county and one or more business entities for projects authorized by this paragraph.

5.a. The county may designate or appoint an authority to administer and disburse such proceeds and any other related source of revenue. However, the annual budget of the authority is subject to approval of the governing body of the county.

b. Except as otherwise provided by law, one-half of the proceeds of the tax which are collected within a municipality the government of which is not consolidated with that of the county must, at the request of the governing body of the municipality, be remitted to the municipality. The revenue remitted to a municipality under this sub-subparagraph may be used by the municipality only for the purposes and in the manner authorized in this paragraph, but the municipality may enter into an interlocal agreement with the county or with any other municipality in the county to use such revenue to jointly finance any project authorized by this paragraph. This sub-subparagraph does not apply to the distribution to the county of any convention development tax revenues necessary to repay the principal of or the interest on any bonds issued under sub-subparagraph 4.a. before May 29, 1984. Notwithstanding this sub-subparagraph, if the governing body of such a municipality adopts a resolution stating that the municipality is unable to use

such revenue for any purpose authorized in this paragraph, the municipality may use the revenue to acquire and develop municipal parks, lifeguard stations, or athletic fields.

6. The consolidated county convention development tax shall be in addition to any other levy imposed under this section.

7. Revenues collected and returned to the county must be deposited in a convention development trust fund, which must be established by the county as a condition precedent to receipt of such funds.

(b) Charter county levy for convention development.--

1. Each county, as defined in s. 125.011(1), may impose, pursuant to an ordinance enacted by the governing body of the county, a levy on the exercise within its boundaries of the taxable privilege of leasing or letting transient rental accommodations described in subsection (3) at the rate of 3 percent of the total consideration charged therefor. The proceeds of this levy shall be known as the charter county convention development tax.

2. All charter county convention development moneys, including any interest accrued thereon, received by a county imposing the levy shall be used as follows:

a. Two-thirds of the proceeds shall be used to extend, enlarge, and improve the largest existing publicly owned convention center in the county.

b. One-third of the proceeds shall be used to construct a new multipurpose convention/coliseum/exhibition center/stadium or the maximum components thereof as funds permit in the most populous municipality in the county.

c. After the completion of any project under sub-subparagraph a., the tax revenues and interest accrued under sub-subparagraph a. may be used to acquire, construct, extend, enlarge, remodel, repair,

improve, plan for, operate, manage, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, or auditoriums, and may be used to acquire and construct an intercity light rail transportation system as described in the Light Rail Transit System Status Report to the Legislature dated April 1988, which shall provide a means to transport persons to and from the largest existing publicly owned convention center in the county and the hotels north of the convention center and to and from the downtown area of the most populous municipality in the county as determined by the county.

d. After completion of any project under sub-subparagraph b., the tax revenues and interest accrued under sub-subparagraph b. may be used, as determined by the county, to operate an authority created pursuant to subparagraph 4. or to acquire, construct, extend, enlarge, remodel, repair, improve, operate, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, auditoriums, golf courses, or related buildings and parking facilities in the most populous municipality in the county.

e. For the purposes of completion of any project pursuant to this paragraph, tax revenues and interest accrued may be used:

(I) As collateral, pledged, or hypothecated for projects authorized by this paragraph, including bonds issued in connection therewith; or

(II) As a pledge or capital contribution in conjunction with a partnership, joint venture, or other business arrangement between a municipality and one or more business entities for projects authorized by this paragraph.

3. The governing body of each municipality in which a municipal tourist tax is levied may adopt a resolution prohibiting imposition of the charter county convention development levy within such municipality. If

the governing body adopts such a resolution, the convention development levy shall be imposed by the county in all other areas of the county except such municipality. No funds collected pursuant to this paragraph may be expended in a municipality which has adopted such a resolution.

4.a. Before the county enacts an ordinance imposing the levy, the county shall notify the governing body of each municipality in which projects are to be developed pursuant to sub-subparagraph 2.a., sub-subparagraph 2.b., sub-subparagraph 2.c., or sub-subparagraph 2.d. As a condition precedent to receiving funding, the governing bodies of such municipalities shall designate or appoint an authority that shall have the sole power to:

(I) Approve the concept, location, program, and design of the facilities or improvements to be built in accordance with this paragraph and to administer and disburse such proceeds and any other related source of revenue.

(II) Appoint and dismiss the authority's executive director, general counsel, and any other consultants retained by the authority. The governing body shall have the right to approve or disapprove the initial appointment of the authority's executive director and general counsel.

b. The members of each such authority shall serve for a term of not less than 1 year and shall be appointed by the governing body of such municipality. The annual budget of such authority shall be subject to approval of the governing body of the municipality. If the governing body does not approve the budget, the authority shall use as the authority's budget the previous fiscal year budget.

c. The authority, by resolution to be adopted from time to time, may invest and reinvest the proceeds from the convention development tax and any other revenues

generated by the authority in the same manner that the municipality in which the authority is located may invest surplus funds.

5. The charter county convention development levy shall be in addition to any other levy imposed pursuant to this section.

6. A certified copy of the ordinance imposing the levy shall be furnished by the county to the department within 10 days after approval of such ordinance. The effective date of imposition of the levy shall be the first day of any month at least 60 days after enactment of the ordinance.

7. Revenues collected pursuant to this paragraph shall be deposited in a convention development trust fund, which shall be established by the county as a condition precedent to receipt of such funds.

(c) Special district levy for convention development.--

1. Each county which was chartered under Art. VIII of the State Constitution and which on January 1, 1984, levied a tourist advertising ad valorem tax within a special taxing district in that county may impose, pursuant to an ordinance enacted by the governing body of the county, a levy within the boundaries of such special taxing district on the exercise of the taxable privilege of leasing or letting transient rental accommodations described in subsection(3) at a rate of up to 3 percent of each dollar and major fraction of each dollar of the total consideration charged therefor. The proceeds of this levy shall be known as the special district convention development tax.

2. The county shall designate or appoint an authority to administer and disburse the proceeds of such levy and any revenue related to the levy authorized by this paragraph. The members of such authority shall be selected from persons involved in the tourism and lodging industries doing business within such special district. Not less than a majority of the members shall be

selected from persons doing business in the lodging industry. Members shall serve at the pleasure of the governing body of such county and shall serve without compensation. The annual budget of such authority shall be subject to approval of the governing body of the county. The authority shall consist of 11 members, who shall annually select a chair from among their members.

3. The county shall have no power to levy and impose the tourist advertising ad valorem tax in such district on or after January 1 of the year following the date of the adoption of the levy authorized in this paragraph. All special district convention development moneys, including any interest accrued thereon, received by a county imposing the special district convention development levy shall be used for the following purposes only:

- a. To promote and advertise tourism;
- b. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus.

4. The special district convention development tax shall be in addition to any other levy imposed pursuant to this section.

5. A certified copy of the ordinance imposing the levy shall be furnished by the county to the department within 10 days after approval of such ordinance. The effective date of the levy shall be the first day of any month at least 60 days after enactment of the ordinance.

6. Revenues collected and returned to the county shall be deposited in a convention development trust fund, which shall be established by the county as a condition precedent to receipt of such funds.

(d) Special levy for convention development.--

1. Each county which was chartered under Art. VIII of the State Constitution and

which on January 1, 1984, levied a tourist advertising ad valorem tax within a special taxing district in that county may impose, pursuant to an ordinance enacted by the governing body of the county, a levy outside the boundaries of such special taxing district and to the southeast of State Road 415, on the exercise of the taxable privilege of leasing or letting transient rental accommodations described in subsection (3), at a rate of up to 3 percent of each dollar and major fraction of each dollar of the total consideration charged therefor. The proceeds of this levy shall be known as the special convention development tax.

2. The county shall designate or appoint an authority to administer and disburse the proceeds of such levy and any revenue related to the levy authorized by this paragraph. The members of the authority shall be selected from persons doing business within the area in which the tax is levied. Not less than three of the members shall be selected from persons doing business in the lodging industry. Members shall serve at the pleasure of the governing body of the county and shall serve without compensation. The annual budget of the authority shall be subject to approval of the governing body of the county. The authority shall consist of seven members, who shall annually select a chair from among their members.

3. All special convention development moneys, including any interest accrued thereon, received by a county imposing the special convention development levy shall be used for the following purposes only:

- a. To promote and advertise tourism;
- b. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus.

4. The special convention development tax shall be in addition to any

other levy imposed pursuant to this section.

5. A certified copy of the ordinance imposing the levy shall be furnished by the county to the department within 10 days after approval of the ordinance. The effective date of the levy shall be the first day of any month at least 60 days after enactment of the ordinance.

6. Revenues collected and returned to the county shall be deposited in a separate convention development trust fund, which shall be established by the county as a condition precedent to receipt of such funds.

(e) Subcounty levy for convention development.--

1. Each county which was chartered under Art. VIII of the State Constitution and which on January 1, 1984, levied a tourist advertising ad valorem tax within a special taxing district in that county may impose, pursuant to an ordinance enacted by the governing body of the county, a levy outside the boundaries of such special taxing district and to the northwest of State Road 415, on the exercise of the taxable privilege of leasing or letting transient rental accommodations described in subsection (3), at a rate of up to 3 percent of each dollar and major fraction of each dollar of the total consideration charged therefor. The proceeds of this levy shall be known as the subcounty convention development tax.

2. The county shall designate or appoint an authority to administer and disburse the proceeds of such levy and any revenue related to the levy authorized by this paragraph. The members of the authority shall be selected from persons doing business within the area in which the tax is levied. Not less than three of the members shall be selected from persons doing business in the lodging industry. Members shall serve at the pleasure of the governing body of the county and shall serve without compensation. The annual budget of the authority shall be

subject to approval of the governing body of the county. The authority shall consist of seven members, who shall annually select a chair from among their members.

3. All subcounty convention development moneys, including any interest accrued thereon, received by a county imposing the subcounty convention development levy shall be used for the following purposes only:

a. To promote and advertise tourism;

b. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus.

4. The subcounty convention development tax shall be in addition to any other levy imposed pursuant to this section.

5. A certified copy of the ordinance imposing the levy shall be furnished by the county to the department within 10 days after approval of the ordinance. The effective date of the levy shall be the first day of any month at least 60 days after enactment of the ordinance.

6. Revenues collected and returned to the county shall be deposited in a separate convention development trust fund, which shall be established by the county as a condition precedent to receipt of such funds.

(5) LOCAL ADMINISTRATION OF TAX.--

(a) A county levying a tax under the provisions of this section may be exempt from the requirements of this section that the tax collected be remitted to the Department of Revenue before being returned to the county and that such tax be administered according to the provisions of this chapter, if the county adopts an ordinance providing for the collection and administration of the tax on a local basis.

(b) The ordinance shall include provision for, but need not be limited to:

1. Initial collection of the tax to be

made in the same manner as the tax imposed under this chapter.

2. Designation of the local official to whom the tax shall be remitted and that official's powers and duties with respect thereto. Tax revenues may be used only in accordance with the provisions of this section.

3. Requirements respecting the keeping of appropriate books, records, and accounts by those responsible for collecting and administering the tax.

4. Payment of a dealer's credit as required under this chapter.

5. A portion of the tax collected may be retained by the county for costs of administration, but such portion shall not exceed 2 percent of collections.

<sup>1</sup>(c) A county adopting an ordinance providing for the collection and administration of the tax on a local basis shall also adopt an ordinance electing either to assume all responsibility for auditing the records and accounts of dealers, and assessing, collecting, and enforcing payments of delinquent taxes, or to delegate such authority to the Department of Revenue. If the county elects to assume such responsibility, it shall be bound by the rules promulgated by the Department of Revenue pursuant to paragraph (3)(f), as well as those rules pertaining to the sales and use tax on transient rentals imposed by s. 212.03. The county may use any power granted in this chapter to the department to determine the amount of tax, penalties, and interest to be paid by each dealer and to enforce payment of such tax, penalties, and interest. The county may use a certified public accountant licensed in this state in the administration of its statutory duties and responsibilities. Such certified public accountants are bound by the same confidentiality requirements and subject to the same penalties as the county under s. 213.053. If the county delegates such

authority to the department, the department shall distribute any collections so received, less costs of administration, to the county. The amount deducted for costs of administration by the department shall be used only for those costs which are solely and directly attributable to auditing, assessing, collecting, processing, and enforcing payments of delinquent taxes authorized in this section. If a county elects to delegate such authority to the department, the department shall audit only those businesses in the county that it audits pursuant to this chapter.

**History.**--s. 1, ch. 83-356; ss. 2, 4, ch. 84-67; s. 70, ch. 86-152; s. 82, ch. 87-6; s. 11, ch.87-99; s. 51, ch. 87-101; s. 1, ch. 87-258; s. 30, ch. 88-119; s. 1, ch. 88-401; s. 32, ch.89-356; s. 30, ch. 90-132; s. 2, ch. 90-349; s. 47, ch. 90-360; s. 85, ch. 91-45; s. 25, ch.91-112; s. 1, ch. 91-155; s. 238, ch. 91-224; s. 8, ch. 93-286; s. 3, ch. 94-351; s. 1493, ch.95-147; s. 1, ch. 95-290; ss. 1, 47, ch. 96-397; s. 61, ch. 96-406; s. 18, ch. 97-99; s. 9, ch.2000-210; ss. 7, 11, ch. 2000-312.1

<sup>1</sup>**Note.**--Section 11, ch. 2000-312, provides that "[t]he provisions of this act shall be reviewed by the Legislature prior to October 1, 2005, and shall be repealed on that date unless otherwise reenacted by the Legislature." If the provisions of ch. 2000-312 are repealed, effective October 1, 2005, paragraph (5)(c) will read:

(c) A county adopting an ordinance providing for the collection and administration of the tax on a local basis shall also adopt an ordinance electing either to assume all responsibility for auditing the records and accounts of dealers, and assessing, collecting, and enforcing payments of delinquent taxes, or to delegate such authority to the Department of Revenue. If the county elects to assume such responsibility, it shall be bound by the rules

promulgated by the Department of Revenue pursuant to paragraph (3)(f), as well as those rules pertaining to the sales and use tax on transient rentals imposed by s. 212.03. The county may use any power granted in this chapter to the department to determine the amount of tax, penalties, and interest to be paid by each dealer and to enforce payment of such tax, penalties, and interest. If the county delegates such authority to the department, the department shall distribute any collections so received, less costs of administration, to the county. The amount deducted for costs of administration by the department shall be used only for those costs which are solely and directly attributable to auditing, assessing, collecting, processing, and enforcing payments of delinquent taxes authorized in this section. If a county elects to delegate such authority to the department, the department shall audit only those businesses in the county that it audits pursuant to this chapter.



## LOCAL OPTION FOOD AND BEVERAGE TAX

### **212.0306 Local option food and beverage tax; procedure for levying; authorized uses; administration.--**

(1) Any county, as defined in s. 125.011(1), may impose the following additional taxes, by ordinance adopted by a majority vote of the governing body:

(a) At the rate of 2 percent on the sale of food, beverages, or alcoholic beverages in hotels and motels only.

(b) At the rate of 1 percent on the sale of food, beverages, or alcoholic beverages in establishments that are licensed by the state to sell alcoholic beverages for consumption on the premises, except for hotels and motels; however, the tax shall not apply to any alcoholic beverage sold by the package for off-premises consumption.

(2)(a)1. The sales in any establishment licensed by the state to sell alcoholic beverages for consumption on the premises, except for hotels and motels, that had gross annual revenues of \$400,000 or less in the previous calendar year, are exempt from the tax authorized by paragraph (1)(b).

2. For purposes of determining qualification for this exemption, each such establishment must determine the annual gross revenues of the business at the end of each calendar year. If an establishment's exemption status changes, the establishment must cease or begin collection of the tax effective the following February 1, in accordance with its new exemption status. An establishment must notify the tax collector of the county levying the tax of such change in writing no later than 20 days after the end of the calendar year.

3. Each newly opened establishment must collect the tax authorized by paragraph (1)(b) for 45 days commencing with its first day of business. After such time a newly

opened business may cease collecting the tax if its projected gross annual revenues are \$400,000 or less. Projected gross annual revenues shall be determined by dividing gross revenues for the first 45 days by 45, and multiplying the resulting quotient by 365. Newly opened businesses which cease collecting the tax must notify the tax collector of the county levying the tax within 20 days after the last day the tax is collected. A newly opened establishment which has been in business for less than 45 days as of the end of its first calendar year is exempt from the provisions of subparagraph 2. for that calendar year.

(b) Sales in any veterans' organization are exempt from the tax authorized by paragraph (1)(b).

(c) All transactions that are exempt from the state sales tax are exempt from the taxes authorized by subsection (1).

(d) Sales in cities or towns presently imposing a municipal resort tax as authorized by chapter 67-930, Laws of Florida, are exempt from the taxes authorized by subsection (1).

(3)(a) The proceeds of the tax authorized by paragraph (1)(a) shall be allocated by the county to a countywide convention and visitors bureau which, by interlocal agreement and contract with the county, has been given the primary responsibility for promoting the county and its constituent cities as a destination site for conventions, trade shows, and pleasure travel, to be used for purposes provided in s. 125.0104(5)(a)2. or 3., 1992 Supplement to the Florida Statutes 1991. If the county is not or is no longer a party to such an interlocal agreement and contract with a countywide convention and visitors bureau, the county shall allocate the proceeds of such

tax for the purposes described in s. 125.0104(5)(a)2. or 3., 1992 Supplement to the Florida Statutes 1991.

<sup>1</sup>(b) For the first 12 months, the proceeds from the tax authorized by paragraph (1)(b) shall be used by the county to assist persons who have become, or are about to become, homeless. These funds shall be made available for emergency homeless shelters, food, clothing, medical care, counseling, alcohol and drug abuse treatment, mental health treatment, employment and training, education, and housing. Thereafter, not less than 15 percent of these funds shall be made available for construction and operation of domestic violence centers, and the remainder shall be used for the other purposes set forth in this paragraph. In addition, the proceeds of the tax and the interest accrued on those proceeds may be used as collateral, pledged, or hypothecated for projects authorized by this paragraph, including bonds issued in connection therewith. Prior to enactment of the ordinance levying and imposing the tax provided for by paragraph (1)(b), the county shall appoint a representative task force including, but not limited to, service providers, homeless persons' advocates, and impacted jurisdictions to prepare and submit to the governing board of the county for its approval a plan for addressing the needs of persons who have become, or are about to become, homeless. The governing board of the county shall adopt this countywide plan for addressing homeless needs as part of the ordinance levying the tax.

(c) The county and each municipality in that county shall continue to contribute each year at least 85 percent of aggregate expenditures from the respective county or municipal general fund budget for county-operated or municipally operated homeless shelter services at or above the average level of such expenditures in the 2

fiscal years preceding the date of levying this tax.

(4) A certified copy of the ordinance that authorizes the imposition of a tax authorized by this section shall be furnished by the county to the Department of Revenue within 10 days after the adoption of the ordinance.

(5) A tax authorized by this section may take effect on the first day of any month, but may not take effect until at least 60 days after the adoption of the ordinance levying the tax.

(6) Any county levying a tax authorized by this section must locally administer the tax using the powers and duties enumerated for local administration of the tourist development tax by s. 125.0104, 1992 Supplement to the Florida Statutes 1991. The county's ordinance shall also provide for brackets applicable to taxable transactions.

(7) Each county shall also appoint an oversight board including, but not limited to, service providers, domestic violence victim advocates, members of the judiciary, concerned citizens, a victim of domestic violence, and impacted jurisdictions to prepare and submit to the governing board of the county for its approval a plan for disbursing the funds made available for the construction and operation of domestic violence centers. Each member of the county's governing board shall appoint a member, and the county manager shall appoint two members, to the oversight board.

History.--s. 2, ch. 89-362; s. 4, ch. 93-233; ss. 1, 2, ch. 94-351; ss. 71, 72, ch. 94-353.

<sup>1</sup>Note.--As amended by s. 71, ch. 94-353. Paragraph (b) was also amended by s. 1, ch. 94-351. The ch. 94-353 version is published here as the last expression of

legislative will. Paragraph (b), as amended by s. 1, ch. 94-351, reads:

(b) For the first 12 months, the proceeds from the tax authorized by paragraph (1)(b) shall be used by the county to assist persons who have become, or are about to become, homeless. These funds shall be made available for emergency homeless shelters, food, clothing, medical care, counseling, alcohol and drug abuse treatment, mental health treatment, employment and training, education, and housing. Thereafter, not less than 15 percent of these funds shall be made available for construction and operation of domestic violence centers, and the remainder shall be used for the other purposes set forth in this paragraph. In addition, the proceeds of the tax and interest accrued may be used as collateral, pledged or hypothecated, for any projects authorized by this paragraph, including bonds issued in connection therewith. Prior to enactment of the ordinance levying and imposing the tax provided for by paragraph (1)(b), the county shall appoint a representative task force including, but not limited to, service providers, homeless advocates, and impacted jurisdictions to prepare and submit to the governing board of the county for its approval a plan for addressing the needs of persons who have become, or are about to become, homeless. The governing board of the county shall adopt this countywide plan for addressing homeless needs as part of the ordinance levying the tax.

Note.--Former s. 125.0104(3)(n).

CHAPTER 82-142

House Bill No. 1094

An act relating to municipal resort tax; amending s. 2 of chapter 67-930, Laws of Florida; authorizing an increase in said tax applicable to the rental of hotel, motel, and similar rooms in those cities and towns levying a municipal resort tax under said chapter; providing an effective date.

Be It Enacted by the Legislature of the State of Florida;

Section 1. Section 2 of chapter 67-930, Laws of Florida, is amended to read:

Section 2. The tax authorized by section 1 shall not exceed two per cent (2%) of the rent received by the person renting such a room or rooms from the person paying said rent, and of the retail sales price paid by any guest, consumer or any person on the purchase of each sale of food, beverages and alcoholic beverages, other than beer or malt beverages, for consumption on the premises of any place of business required by law to be licensed by the state hotel and restaurant commission or by the state beverage department. However, upon approval by referendum prior to January 1, 1983, of a charter amendment so authorizing, the tax may be levied at a rate not to exceed 3% on the rent of such room or rooms.

Section 2. This act shall take effect July 1, 1982.

Approved by the Governor April 6, 1982.

Filed in Office Secretary of State April 7, 1982.

CHAPTER 83-363

House Bill No. 288

An act relating to municipal resort tax; amending s. 2 of chapter 67-930, Laws of Florida, as amended, relating to the levy of said tax in cities and towns in counties of the state having a population of not less than 330,000 and not more than 340,000 and counties having a population of more than 900,000; deleting the deadline for referendum approval of an increase in said tax applicable to the rental of hotel, motel, and similar rooms; authorizing an additional increase; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 2 of chapter 67-930, Laws of Florida, as amended by chapter 82-142, Laws of Florida, is amended to read:

Section 2. The tax authorized by section 1 shall not exceed two per cent (2%) of the rent received by the person renting such a room or rooms from the person paying said rent, and of the retail sales price paid by any guest, consumer or any person on the purchase of each sale of food, beverages and alcoholic beverages, other than beer or malt beverages, for consumption of the premises of any place of business required by law to be licensed by the state hotel and restaurant commission or by the state beverage department. However, upon approval by referendum ~~prior to January 1, 1983,~~ of a charter amendment so authorizing, the tax may be levied at a rate not to exceed 4 percent ~~3%~~ on the rent of such room or rooms.

Section 2. This act shall take effect July 1, 1983.

Became a law without the Governor's approval.

Filed in Office Secretary of State June 9, 1983.

## CHAPTER 67-930

### House Bill No. 2394

**AN ACT relating to cities and towns in all counties of the state having a population of not less than three hundred thirty thousand (330,000) and not more than three hundred forty thousand (340,000) and in counties having a population of more than nine hundred thousand (900,000), according to the latest official decennial census, authorizing such cities and towns, whose charter specifically permits, to impose, levy and collect a municipal resort tax not to exceed two per cent (2%) of certain rentals and sale of food and beverage; providing for the collection of such tax; authorizing the governing legislative body of such cities to appoint a resort tax authority, fixing the number of its members, their qualifications, tenure of office, their power and authority in the supervision and expenditure of the funds from such tax; providing the method of repeal or amendment of such ordinance creating such authority; providing for a referendum election.**

***Be It Enacted by the Legislature of the State of Florida:***

**Section 1. All cities and towns, in counties of the state having a population of not less than three hundred thirty thousand (330,000) and not more than three hundred forty thousand (340,000) and in counties having a population of more than nine hundred thousand (900,000), according to the latest official decennial census, whose charter specifically provides now or whose charter is so amended prior to January 1, 1968, for the levy of the exact tax as herein set forth, are hereby given the right, power and authority by ordinance to impose, levy and collect a tax within their corporate limits, to be known as a municipal resort tax, upon the rent of every occupancy of a room or rooms in any hotel, motel, apartment house, rooming house, tourist or trailer camp, as the same are defined in part I, chapter 212, Florida Statutes, and upon the retail sale price of all items of food, beverages and alcoholic beverages, other than beer or malt beverages, sold at retail for consumption on the premises of any place of business required by law to be licensed by the state hotel and restaurant commission or by the state beverage department; provided, however, this tax shall not apply to those sales the amount of which is less than fifty cents (50¢).**

**Section 2. The tax authorized by section 1 shall not exceed two per cent (2%) of the rent received by the person renting such**

a room or rooms from the person paying said rent, and of the retail sales price paid by any guest, consumer or any person on the purchase of each sale of food, beverages and alcoholic beverages, other than beer or malt beverages, for consumption on the premises of any place of business required by law to be licensed by the state hotel and restaurant commission or by the state beverage department.

**Section 3.** The tax imposed by this act shall be collected from the person paying said rent of said retail sales price and shall be paid by such person for the use of the city or town to the person collecting and receiving the rent or the retail sales price at the time of the payment thereof. It shall be the duty of every person renting a room or rooms, as herein provided, and of every person selling at retail for consumption on the premises, food, beverages and alcoholic beverages, other than beer or malt beverages, as herein provided, in acting as the tax collection medium or agency of the city or town, to collect from the person paying the rent or the retail sales price, for the use of the city or town, the tax imposed and levied pursuant to this act, and to report and pay over to the city or town all such taxes imposed, levied and collected, in accordance with the accounting and other provisions of the enacted ordinance.

**Section 4.** Any ordinance adopted under the provisions of this act shall exempt therefrom the persons and transactions exempted from the payment of the tax imposed by section 212.03, Florida Statutes, and such ordinance may further provide for such other exemptions from the tax hereby authorized as the governing legislative body of the city or town shall deem proper.

**Section 5.** Any ordinance adopted hereunder may provide such penalties of the violation of such ordinance as the governing legislative body of the city or town shall deem appropriate.

**Section 6.** Any funds received under and by virtue of the municipal resort tax imposed or levied under the authority of this act shall be used for the following purposes only: creating and maintenance of convention and publicity bureaus, cultural and art centers, enhancement of tourism, publicity and advertising purposes and for the future cost, purchase, building, designing, engineering, planning, repairing, reconditioning, altering, expanding, maintaining, servicing and otherwise operating auditoriums, community houses, convention halls, convention

**buildings or structures, and other related purposes, including relief from ad valorem taxes heretofore levied for such purposes.**

**Section 7. The municipal resort tax imposed or levied under the authority of this act shall be in addition to the state tax provided for by part I, chapter 212, Florida Statutes.**

**Section 8. The governing body of any city or town adopting any ordinance imposing the tax hereby authorized may also, by ordinance create an authority or commission empowered to contract and be contracted with in its own name as an agency of the city and to administer and expend such portion of the proceeds of said tax as the governing body may determine. The membership, qualifications for membership, tenure, and any other powers to be exercised by said authority or commission shall be prescribed by ordinance. Provided, however, that no ordinance or measure abolishing any authority or commission, as herein described, which may be created pursuant to this act, or curtailing, limiting or changing the powers of such authority or commission, or reducing or enlarging the number of its members, or reducing the percentage of funds to be administered or expended by said authority or commission, shall be valid unless such ordinance or measure so providing shall first be approved by the electorate in a referendum election, unless such ordinance or measure is adopted by a four fifths (4/5) vote of the authority plus a five sevenths (5/7) vote of the council.**

**Section 9. No charter amendment authorized by this act shall become effective unless approved by a majority vote of the electors residing in such town or city at an election heretofore or hereafter held at a time to be fixed by the governing body of such town or city. In the event such election is not held as provided, this act shall be void in those towns or cities failing to hold such election.**

**Section 10. The provisions of this act to the contrary notwithstanding section 561.36(1), Florida Statutes, shall remain in full force and effect.**

**Became a law without the Governor's approval.**

**Filed in Office Secretary of State July 14, 1967.**